

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1677 OF 2006
(For Leave to Appeal)

in

CRIMINAL APPEAL NO. OF 2006
(Against the order of acquittal)

The State of Maharashtra
Applicant/Appellant.

....

(Orig. Complainant)

V/s

Dhondiram Yeshwant Jagtap
and Ors.

....Respondents.

Mrs. M.M. Deshmukh, APP for the State.

Mr. P.P. Tendulkar i/b Mr. M.S. Karnik for Respondent Nos. 1
to 4.

CORAM: V.M. KANADE, J.

DATE : 29th October, 2007

P.C.:

1. Applicant - State has filed this application seeking leave to file an appeal. Record and proceedings was called for and, after the record was received, the learned APP appearing on behalf of the applicant has taken me through the judgment and order of the trial court. The Trial Court

was pleased to acquit the accused for the offence punishable under section 498-A, 323, 504, 506 read with section 34 of the Indian Penal Code.

2. It is the case of the prosecution that the accused demanded Rs 22,000/- from the complainant for purchasing a tractor and on account of non-payment of the said amount, accused No.3 used to ill-treat the complainant. It is alleged that on account of ill-treatment, she had consumed pesticide on one occasion and had to be admitted in the hospital.

3. The complainant had given different versions about pesticide which was allegedly consumed by her. In the hospital she was admitted, she stated that while she was spraying insecticide on the crops, inadvertently some part of the insecticide went in her nose. At another place, she has stated that the accused administered insecticide to her. At third place, she has stated that she consumed insecticide being frustrated by the ill-treatment by the husband and his parents. Further, in respect of theory of demand of money for purchase of tractor also, several contradictions have been made by her. She has admitted that the accused was already having a tractor prior to her marriage and that the economic status of the accused was quite good. Further, at one stage she has stated that demand of Rs 20,000/- was made for purchase of tractor. However, in the maintenance application, she has stated that the demand was made for repayment of the loan amount of tractor.

Thus, there are several contradictions in her statement. The trial court has not relied on her testimony. Further, in the maintenance application, she has stated that her father-in-law tried to outrage her modesty. However, this statement is not made by her in her complaint which is filed with the police. No explanation has been offered by her in respect of the said improvements which are made. In my view, therefore, trial court was justified in discarding the testimony of the complainant. The prosecution, in my view, therefore, has not established its case beyond the reasonable doubt. There is no reason to interfere with the impugned judgment and order. Application for leave to file appeal is accordingly dismissed.

(V.M. KANADE, J.)

